

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:12-cv-345-RJC**

GILBERTO ROBLES,

Petitioner,

vs.

**ALVIN W. KELLER, JR., Secretary of
North Carolina Prisons,**

Respondent.

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ORDER


THIS MATTER is before the Court upon Petitioner’s Application to Proceed in District Court Without Prepaying Fees or Costs. (Doc. No. 2). By his Application, Petitioner, an inmate at Marion Correctional Institution in Marion, North Carolina, is seeking permission to proceed with his Petition under 28 U.S.C. § 2254 for a Writ of Habeas Corpus, (Doc. No. 1), without having to pay the \$5.00 filing fee for that action.

Pursuant to 28 U.S.C. § 1915(a)(2), a prisoner seeking to proceed in a Section 2254 action without prepayment of fees, in addition to submitting the required affidavit, “shall submit a certified copy of the trust fund account statement (or the institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint.” The provisions of 28 U.S.C. § 1915(a)(2) are mandatory. Petitioner placed his petition in the prison mail system on October 22, 2012, and it was stamp-filed in this Court on October 29, 2012. Petitioner attached his prisoner trust account statement to the petition, showing that as of May 31, 2012, Petitioner had \$95.75 in his account. Before the Court can address Petitioner’s in forma pauperis motion, must obtain from the prison his trust fund account statement showing his account information for the 6-month period mmediately preceding the filing of the petition—that

is, a statement ending on or around October 29, 2012, the date on which Petitioner placed the petition in the prison mailing system. When Petitioner submits the statement to this Court, the Court will conduct an initial review of the petition.

IT IS, THEREFORE, ORDERED that Petitioner shall, within thirty (30) days from service of this Order, produce a certified copy of his trust fund account statement for the 6-month period immediately preceding the filing of the petition on October 29, 2012. If Petitioner does not produce a certified copy of his trust fund account statement within such time, this action may be subject to dismissal. Petitioner shall inform the Court if the prison is not responding to his requests for a copy of the trust fund account statement and if he cannot submit the statement to this Court within thirty days. As an alternative to submitting his trust fund account statement with this Court, Petitioner may instead choose not to seek to proceed in forma pauperis and pay the \$5.00 filing fee.

Signed: May 6, 2013


Robert J. Conrad, Jr.
Chief United States District Judge

